

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WILLIAM DAVID EVANS, JR.,)
)
Petitioner,)
vs.) NO. CIV-14-0576-HE
)
JOE M. ALLBAUGH, Interim Director,)
Oklahoma Department of Corrections,)
)
Respondent.)

ORDER

Petitioner William David Evans, Jr., a state prisoner appearing *pro se*, filed this action pursuant to 28 U.S.C. § 2254 seeking habeas relief. Consistent with 28 U.S.C. §636(b)(1)(B) and C, the matter was referred to Magistrate Judge Bernard M. Jones for initial proceedings. The magistrate judge recommends that the defense of procedural bar raised by respondent in his response to the habeas petition be denied and that consideration of the merits of the sole claim petitioner asserts in the petition – ineffective assistance of counsel – be deferred pending supplementation of the record and further briefing.

Neither party objected to the Report and Recommendation. They thereby waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. §636(b)(1)(C).

Accordingly, the court **ADOPTS** Magistrate Judge Jones's Report and Recommendation and concludes that petitioner's ineffective assistance claim is not procedurally barred. The matter is referred again to Judge Jones for further review of

petitioner's claim.

IT IS SO ORDERED.

Dated this 20th day of April, 2016.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE